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Ivory Coast

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1. Introduction

1.1 This document summarises the general, political and human rights situation in the Ivory Coast and provides information on the nature and handling of claims frequently received from nationals/residents of that province. It must be read in conjunction with the COI Service Ivory Coast Country Information Bulletin of June 2005.

1.2 This document is intended to provide clear guidance on whether the main types of claim are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers should refer to the following Asylum Policy Instructions for further details of the policy on these areas:

API on Assessing the Claim
API on Humanitarian Protection
API on Discretionary Leave
API on the European Convention on Human Rights

1.3 Claims should be considered on an individual basis, but taking full account of the information set out below, in particular Part 3 on main categories of claims.

Source documents

1.4 Where source numbers have been cited (e.g. [sources 1b, 2a & 13a]), these refer to references and source documents in the COI Service Ivory Coast Country Information Bulletin June 2005. Additional source documents (e.g. [1][2]) are listed at the end of this note.

2. Country assessment

2.1 Ivory Coast gained independence from France in 1960, with Felix Houphouët-Boigny as President and chairman of the single ruling party, the Parti Démocratique de la Côte d'Ivoire (PDCI) which dominated Ivorian politics until the early 1990s. A new electoral code in 1994, required presidential candidates to have two Ivorian parents and to have resided in the country for five years before the election. Both amendments were aimed at preventing Allasane Ouattara, whose party, the Rassemblement des républicains (RDR) gains its support in the main from the Muslim north of the country, from standing in the 1995 presidential election. President Bédié, and the PDCI, won an overwhelming victory, but subsequently failed to deal with growing student and industrial unrest or with problems over pay and conditions in the military. In December 1999, General Robert Guei led the country's first-ever military coup. [sources 1, 13a & 13b]

2.2 Legislative elections in December 2000 (from which Ouattara was again banned, leading to an RDR boycott) and municipal elections in March 2001 went relatively smoothly, but the strong support for the PDCI and the RDR, prompted President Gbagbo (FPI) to hold a National Reconciliation Forum in October 2001. Gbagbo, Bédié, Ouattara and Guei all attended to agree a series of recommendations including acceptance of the October 2000 election results. All the main parties participated in the first-ever district and regional elections in July 2002. But the elections were marred by inter-ethnic violence between RDR and FPI supporters and by claims of administrative malpractice and contested electoral lists. [sources 1, 13a & 13b]

2.3 On 19 September 2002, an attempted coup took place in Abidjan and in the north of the country. The uprising in Abidjan was quickly suppressed, although Guei, and Interior Minister Boga Doudou, were killed in the ensuing violence. The rebels had more success in the north, seizing control of the major cities of Bouake and Korhogo. The rebels, who subsequently identified themselves as the Mouvement Patriotique de Côte d'Ivoire (MPCI), included factions of the military unhappy at government proposals to retire them, but also drew wider support from those who opposed the existing political regime. [sources 1, 2a, 13a & 13b]

2.4 The Economic Community of West African states (ECOWAS) responded swiftly to the crisis, negotiating a ceasefire between the two sides on 17 October 2002. However the situation became more complex following the emergence in November 2002 of two new rebel groups in the west, the Mouvement Patriotique Ivoirien du Grand Ouest (MPIGO) and the Movement for Peace and Justice (MJP). There was a

fresh round of fighting in the west, and also a number of ceasefire breaches in the north. All Ivorian political parties and the three rebel groups attended Round-Table discussions in Paris in January 2003, which led to the Linas Marcoussis Agreement (LMA). This provided for a new Government of National Reconciliation and addressed the key issues underlying the current crisis. [sources 1, 2a, 13a & 13b]

2.5 On 29 May 2003, the new government presented its programme, closely based on the requirements of the LMA, to the National Assembly. Following the declaration of a comprehensive ceasefire, the ceasefire line was successfully extended to the Liberian border in late May, and the situation in the west stabilised significantly. The Forces Armées Nationales de Côte d'Ivoire (FANCI) and the New Forces (NF) issued a joint declaration on 4 July 2003 declaring a permanent cessation of hostilities. The National Assembly agreed an Amnesty Law, as required by the LMA, on 6 August 2003 (this is not intended to provide amnesty for those who committed serious human rights abuses or economic crimes). [sources 1, 2a, 13a & 13b]

2.6 Despite this progress, levels of confidence between both sides continued to fluctuate. Although the NF re-joined the Government in January 2004, any sense of optimism was short-lived. In March 2004, the PDCI suspended their participation in Cabinet meetings, accusing Gbagbo of stalling on the reconciliation process. Pro-Marcoussis parties including the PDCI and the RDR announced a march in support of the LMA, despite a ban on all demonstrations. When the resulting 25 March demonstration was forcibly repressed by the authorities, leaving more than a hundred dead, six other parties, including the RDR and the New Forces (the G7) joined the PDCI boycott. [sources 1, 2a, 13a & 13b]

2.7 A UN Peacekeeping Force (UNOCI) began to deploy in April 2004, with the bulk of the 6,000 plus troops expected to be in place by the end of September 2004. The G7 returned to government in August 2004, following the signature of the Accra III accord which called for the President to facilitate the passing of all LMA-related legislation by 30 September 2004 and for the Demobilisation, Disarmament and Re-integration (DDR) process to start by 15 October 2004 at the latest. The National Assembly has, however, made little progress to date on the enactment of the legislation. Bills on Nationality and the composition of the Independent Electoral Commission are blocked, and no progress has been made on amending Article 35 of the Constitution on eligibility to stand as President. [sources 1, 2a, 13a & 13b]

2.8 Ivorian government fighter planes dropped bombs over the rebel stronghold of Bouake on 4 November 2004. Following an air strike on 6 November 2004 by Ivorian government forces on a French military base near Bouake in which nine French peacekeepers were killed, the French destroyed the Ivorian government's aircraft. Retaliation by Ivorian government forces and pro-government militias followed swiftly. Between 6 and 8 November 2004, French peacekeepers clashed with Government troops and pro-government militias near the airport in Abidjan, at the French military base and in various locations throughout the city. Militia groups also attacked foreign businesses and residences. British, French and other governments assisted around 8,000 foreign nationals to leave. [sources 1, 2a, 13a & 13b]

2.9 In December 2004, President Mbeki of South Africa was mandated by the African Union to revitalise the peace process. The Pretoria agreement was signed on 6 April 2005 and a further agreement was signed, also in Pretoria, in June 2005. While reiterating many of the key elements of LMA, the Pretoria agreements set a more specific timetable for the crucial issue of disarmament (of the New Forces, some elements of the national army and of the militia). It has been agreed that disarmament would begin in August 2005. Presidential elections are scheduled for October 2005, and legislative elections for later in 2005. Earlier in April 2005, Gbagbo announced that he would use his constitutional powers to allow all nominees of parties signatory to the Linas Marcoussis to run in the elections, thereby apparently clearing the way for Ouattara to stand. However, disputes remain over the mechanisms for organising the elections. Outbreaks of violence in Abidjan in July 2005 have again highlighted the fragility of the peace process. [sources 1, 2a, 3b, 3d, 5b, 13a & 13b] [1]

2.10 Ivory Coast is home to a large immigrant population. Problems of discrimination and ethnic tension have been exacerbated by the concept of 'Ivoirité', which many see as divisive and favouring the largely Christian south. Tensions became increasingly serious following the outbreak of the current crisis in September 2002 since when serious ethnically and politically-motivated human rights abuses by both the state authorities and opposition rebel movements have continued to be reported. [sources 1, 2a, 3a, 3c, 3e, 4a, 5a & 6]

2.11 A large number of people, including immigrant workers and refugees, were displaced by the fighting and by attacks on the immigrant community. A UN fact-finding mission which visited Ivory Coast in December 2002 concluded that all sides to the conflict had committed serious violations of human rights and international humanitarian law. They found that reports of mass graves in conflict areas were credible,

and that death squads were operating in Abidjan. In April 2004, a report into the 25 March 2004 events by the UN High Commissioner for Human Rights concluded that "indiscriminate killing of innocent civilians and the committing of massive human rights violations" occurred under the "direction and responsibility of the highest authorities of the State". In August 2004, UNOCI announced the existence of three mass graves, containing at least 99 bodies, in the area around Korhogo in the New Forces controlled north of the country. The report of the UN Commission of Inquiry into Human Rights Violations since 19 September 2002 which visited Ivory Coast from June - August 2004 will be published later in 2005. [sources 2a, 3a, 4a, 4c, 5a & 6]

2.12 The international community, including the UK, has condemned human rights violations and stressed that all the parties in Ivory Coast, including the government, must take the necessary action to bring to justice those responsible, and to prevent further violations. Human rights organisations generally operate freely in Ivory Coast. The Constitution provides for an independent judiciary. Police brutality and petty corruption are issues. Child trafficking is a growing phenomenon in Ivory Coast. A number of significant human rights violations including the Yopougon massacre remain unresolved. In April 2004, the National Assembly voted in favour of the creation of a National Commission on Human Rights, one of the requirements of the LMA. There has, however, been no progress since on the establishment of the Commission and human rights abuses throughout the country continue to be reported. [sources 1, 2a, 3a, 4a, 4c, 4d, 5a, 5b & 6]

2.13 Ivory Coast has ratified the International Covenant on Civil and Political Rights and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Ivory Coast abolished the death penalty for all crimes in July 2000, when the new constitution was adopted. [sources 1, 2a, 3a, 4a, & 6]

2.14 An Amnesty Law was passed by an overwhelming majority in the National Assembly on 6 August 2003. This law offers amnesty to all offences against the security of the state committed since the events of 17 and 18 September 2000, and those linked to the armed crisis of 19 September 2002. Serious human rights abuses and economic crimes do not fall under the scope of the amnesty. This law was an element of the LMA, and its acceptance is widely seen as a key part of the peace process. [sources 1, 2a, 3a, 4a, & 6]

3. Main categories of claims

3.1 This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Ivory Coast. It also contains any common claims that may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal flight are set out in the relevant API's, but how these affect particular categories of claim are set out in the instructions below.

3.2 Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in Karanakaran should be followed when deciding how much weight to be given to the material provided in support of the claim (see the API on Assessing the Claim).

3.3 If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.

3.4 This guidance is not designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on Assessing the Claim)

3.5 Also, this guidance does not generally provide information on whether or not a person should be excluded from the Refugee Convention or from Humanitarian Protection or Discretionary Leave. (See API on Humanitarian Protection and API on Exclusion under Article 1F or 33(2) and API on DL)

All APIs can be accessed via the IND website at:

http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis.html

3.6 Members of the RDR

3.6.1 Many claimants will apply for asylum based on ill-treatment amounting to persecution at the hands of the state authorities due to their membership of, involvement with, or perceived involvement with a major opposition political party, the Rally of Republicans (RDR).

3.6.2 Treatment. The RDR was formally launched in October 1994 by a dissident faction of the then ruling PDCI. By the end of 1994 the RDR had replaced the FPI as the main opposition party. The RDR is seen as drawing most of its support from the north, whose populations are predominantly Muslim. Members and supporters of the RDR have been subject to arbitrary arrest, detention, extra-judicial killings and torture, as well as rape and other human rights violations by Government security forces. Signs of an improvement in the situation of political activists were evident when, in early 2003 the RDR members reportedly detained by the Government in 2002 in what opposition parties deemed a 'witch hunt' were finally released from detention. [sources 1, 2a, 3a, 4a & 5b]

3.6.3 In March 2003, Prime Minister Diarra formed a Government of National Reconciliation. The RDR were given seven of the 41 ministerial posts, including the Ministry of Justice. However, in March 2004 many people were rounded up and arrested by state security forces during a protest march by the opposition political parties pushing for the full implementation of the Linas Marcoussis peace accord. The round-ups occurred in the poorer areas inhabited primarily by West African immigrants and northern Ivorians, often perceived as supporters of the RDR. In response to the violence, the RDR suspended their involvement in the government. [sources 1, 2a, 3a, 4a & 5b]

3.6.4 Many individuals reported missing in 2002/3 remained missing at the end of 2004, especially members of the opposition and RDR members. They reportedly had elected to remain in hiding to escape death squads and to prevent harassment of their relatives still in the country. High-ranking RDR officials and leaders linked with rebel activities who were arrested in July and August 2004 were promptly released. During government attacks on rebel strongholds in the north in November 2004, crowds of a pro-government youth movement the Young Patriots ransacked RDR headquarters and RDR ministers' houses in Abidjan. [sources 2a, 3a, 4a & 5b] There have not been any significant reports in 2005 of attacks on RDR members or activists by state-sponsored agents. [source 13b]

3.6.5 Sufficiency of protection. As this category of applicants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

3.6.6 Internal Relocation. As this category of applicants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.

3.6.7 Caselaw

IAT/AIT Determinations: AZ (Ivory Coast) CG [2004] UKIAT 00170 promulgated 23 June 2004. Risk on return for low-level RDR member. The Tribunal did not find that returning RDR members and supporters would be at real risk of persecution on return (para 54). It also considered a UNHCR position paper of January 2004 which does not provide compelling evidence that someone internally displaced in Abidjan would be at risk of ill-treatment amounting to a breach of Article 3 (para 63).

3.6.8 Conclusion. The RDR is the one of the main opposition groups to play a major role in opposition political activity. It is a registered party and therefore being a member is not illegal. In spite of the party's activities continuing to be subject to restrictions by the government during 2004, RDR affiliates are not considered to be at risk of treatment amounting to persecution on the basis of their membership of, or association with the party. Membership of, involvement in, or perceived involvement in the RDR at low or medium level is not likely to amount to ill-treatment that engages the UK's obligations under the 1951 Convention. The grant of asylum in such cases is therefore not likely to be appropriate. In cases where claimants are able to demonstrate that they are a high-level RDR director or leading activist, there is a real risk that the claimant will encounter ill-treatment amounting to persecution. The grant of asylum in such cases is therefore likely to be appropriate.

3.7 Members of the NF

3.7.1 Many claimants will apply for asylum based on ill treatment amounting to persecution at the hands of the state authorities due to their membership of, involvement with, or perceived involvement with the New Forces (NF), the opposition ex-rebel movement that controls the northern half of the country:

3.7.2 Treatment. The NF are comprised of three former rebel groups; the Patriotic Movement of Ivory Coast (MPCI), the Ivorian Popular Movement of the Far West (MPIGO) and the Movement for Peace and Justice (MJP). The MPCI was created in late September 2002 while the MPIGO and MJP emerged in the west in October 2002. The north and most of the west of the country is under the control of the NF. In March 2003, Prime Minister Diarra selected nine members of the NF to represent the newly formed Government of National Reconciliation. The NF human rights record in the north includes summarily executions, the killing numerous civilians, arbitrarily arrests and detention, as well as arbitrary ad hoc justice. [sources 1, 2a, 3a, 4a & 5b]

3.7.3 Numerous demonstrations occur in the NF-controlled territory, which are usually organised by the MPCI and in support of the NF and against President Gbagbo. The NF joined the PDCI opposition party in arranging the anti-Gbagbo protest march in March 2004, which resulted in the death of many demonstrators at the hands of the government security forces. Consequently the NF suspended their involvement in the Government of National Reconciliation. President Gbagbo has dismissed three opposition ministers from Ivory Coast's broad-based interim government, including Guillaume Soro, the leader of the NF. [sources 1, 2a, 3a, 4a & 5b]

3.7.4 Though the NF temporarily rejoined the transitional government in August 2004, relations with the governing party and President Gbagbo again deteriorated to the point where government forces attacked the NF's northern strongholds by air in November 2004. The immediate crisis and threat of a return to civil war was averted by the end of 2004, but tense and fragile diplomatic relations between the government and NF have continued into 2005. In April 2005 the rebels declared an end to their armed conflict [sources 1, 2a, 3a, 4a, 5b & 13b] however by August 2005 they had still refused to fully disarm pending the implementation of long-delayed reforms on citizenship rights. [2a]

3.7.5 Sufficiency of protection. As this category of applicants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

3.7.6 Internal relocation. As this category of applicants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.

3.7.7 Conclusion. Since the conclusion of the provisional disarmament agreement between the Government and the NF in April 2005, there have been no reports of substantial recurrences of the armed conflict or human rights abuses that were widely documented in 2004. Though relations between the two sides remain tense and progress towards permanent reconciliation is subject to continual disagreements and delays, it is likely that claimants who cite their involvement with, perceived involvement with or membership of NF will not now be able to adduce a real risk of ill-treatment amounting to persecution at the hands of the authorities within the terms of the 1951 Convention. The grant of asylum in such cases is not therefore likely to be appropriate.

3.7.8 The NF has been responsible for numerous serious human rights abuses and actions that amount to war crimes. If it is accepted that the claimant was a member or combatant for the NF, then caseworkers should consider whether to apply one of the Exclusion clauses.

3.8 Non-Ivorians and / or Muslims from the north

3.8.1 Some claimants will apply for asylum based on societal discrimination or state-sponsored ill-treatment amounting to persecution due to them being of immigrant origin or belonging to an ethnic or religious group considered to be non-Ivorian. On a national level, the conflict is essentially between Muslim and/or 'non-citizen' immigrants in the rebel-held north and the pro-government mainly Christian population in the south.

3.8.2 Treatment. Ivory Coast is home to 60 ethnic groups, including the Akan, of which the Baoule is the largest sub-group, the Senoufou, the Mande/Dioula, the Krou and the Yacouba. At least 26% of the population is foreign, and of that group, 95% were other Africans. There are more than 5 million West African immigrants living in the country. Most of the Africans were from neighbouring countries, with half

from Burkina Faso. Birth in the country does not automatically confer citizenship. Outdated or inadequate land ownership laws result in conflicts with an ethnic and anti-foreigner aspect. [sources 1, 2a, 13a] [1]

3.8.3 Some indigenous ethnic groups include many 'non-citizens', while other ethnic groups included few 'non-citizens'. During 2004, there were societal and political tensions between these two sets of ethnic groups. This cleavage corresponded to some extent to regional differences. Members of northern ethnic groups that are found in neighbouring countries as well as in the country often are required to document their citizenship, whereas members of formerly or presently politically powerful ethnic groups of the west, south, and central regions reportedly are not required to do so. [sources 1, 2a, 3a, 4a, 5b & 6] [1]

3.8.4 Police routinely abused and harassed non-citizen Africans residing in the country during 2004. Official harassment reflects the frequently encountered belief that foreigners are responsible for high crime rates, as well as a concern for identity card fraud. Harassment of northerners increased markedly after the 2002 rebellion. The victims of the violence in Abidjan in (and since) March 2004, most recently following the attacks on rebel territory in November 2004, included foreigners as well as northerners. [sources 1, 2a, 3a, 4a, 5b & 6] [1]

3.8.5 In 2004, some Muslims believed that their religious or ethnic affiliation made them targets of discrimination by the Government with regard to both employment and the renewal of national identity cards. As northern Muslims shared names, style of dress, and customs with several of the country's predominantly Muslim neighbouring countries, they sometimes were accused wrongly of attempting to obtain nationality cards illegally to vote or otherwise take advantage of citizenship. This created a hardship for a disproportionate number of Muslim citizens. There were several reports in 2004 of violence and increased Christian/Muslim tensions, generally in the north and west regions. [source 2a, 3a & 4a]

3.8.6 Relations between Muslims and Christians, specifically Catholics, improved during 2004. In January 2004, to celebrate the New Year, leaders of all major religious groups and the Minister of Religion met within the Forum of Religious Groups, an NGO-inspired, interdenominational gathering. In April 2004 an inter-faith memorial service was held in Abidjan to mourn those killed during the March 2004 demonstrations. Religious leaders continued to attend each other's main religious celebrations, setting an example of reconciliation for their respective communities. [source 2a, 3a & 4a]

3.8.7 The long-standing conflict between the government and political opposition (RDR) and armed opposition (NF) groups, based mainly in the north of the country and representing 'non-citizens' of immigrant African descent, remains ongoing. While the government initiated the crucial citizenship reforms demanded by the RDR and NF following the resumption of peace talks after the November 2004 attacks on the north, these have yet to be fully or satisfactorily implemented. As such, those of non-Ivorian immigrant descent are still ineligible for Ivorian citizenship. [sources 1, 2a, 3a, 4a, 5b, 6 & 13a & 13b] [1]

3.8.8 Sufficiency of protection. If this category of applicants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection. If this category of applicants' fear is of ill treatment/persecution as a result of societal discrimination or by other non-state agents, there is insufficient evidence that the state authorities would be able to offer adequate protection to those of 'non-Ivorian' or Muslim background.

3.8.9 Internal relocation. If this category of applicants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible. If this category of applicants' fear is of ill treatment/persecution as a result of societal discrimination or by non-state agents then though security forces and other government agencies operated roadblocks on major roads, where they demand that motorists or passengers produce identity and vehicle papers and regularly extort small amounts of money (particularly from those intending to travel north from government-controlled areas to NF territory), the Government generally does not restrict internal travel or freedom of movement. [source 2a] Those of 'non-Ivorian' or Muslim background are therefore able to internally relocate to another part of the country to escape this threat.

3.8.10 Conclusion. There have been frequent reports over the past few years of state and non-state violence and discrimination stemming from the long-standing political and armed dispute between north and south about citizenship rights for immigrant ethnic and religious minorities. However, the progress in 2005 towards implementing reforms to enfranchise 'non-citizens', the pledge by NF rebels to continue disarming and the availability of a viable internal relocation option means it is unlikely that claimants of 'non-Ivorian' background and/or who are Muslims from the north will be able to adduce ill-treatment amounting to persecution, either by the state authorities or non-state agents based solely on their immigrant status and/or religious affiliation. The grant of asylum in such cases is therefore unlikely to be appropriate.

3.9 Female genital mutilation

3.9.1 Some claimants will apply for asylum based on ill treatment amounting to persecution at the hands of non-state agents, usually community elders or tribal leaders, because they have undergone, are liable for, or face pressure to carry out on others, female genital mutilation (FGM).

3.9.2 Treatment. FGM is a serious problem In Ivory Coast. It is practised primarily among the rural Muslim populations and is deeply rooted in traditional Animist initiation rites in the north and west, and to a lesser extent in central regions. The procedure usually is performed on young girls or at puberty as a rite of passage. Practising Muslim groups include the northern Mande (Malinke, Foula, Bambara, Dioula) and some members of the Voltaic groups (Senuofo, Tagwana, Djimini, Lobi, Birifor, Koulango) in the north. The southern Mande in the west (Dan, Yacouba, Toura, Gouro), many of whom are not Muslim, the We from the Krouren group and Baoule in some villages surrounding the central city of Bouake also practice FGM. [source 2a & 6]

3.9.3 According to the World Health Organisation (WHO) and the Ivorian Association for the Defence of Women (AIDF), as many as 60% of women have undergone FGM. Many families in cities go back to their villages to have their daughters circumcised. The practice is declining in popularity, but persists in many places. In July 2004, the National Committee for the Fight Against Harmful Traditional Practices adopted more efficient strategies to combat FGM including raising the awareness of traditional chiefs, the creation of a permanent executive board, and the training of victims who could in turn sensitise the families of potential victims. In August 2004, the National Committee in charge of Fighting against Violence against Women and Children had arrested an FGM practitioner who was preparing to perform FGM on four girls in Yopougon in Abidjan. [source 2a & 6]

3.9.4 Sufficiency of protection. Ivorian law specifically forbids FGM and imposes on those who perform it criminal penalties of imprisonment for up to 5 years and a fine of approximately US\$690 to US\$3,800 (360,000 to 2 million CFA francs); double penalties apply to medical practitioners. Several excisors have been prosecuted for performing FGM. [source 2a] Those in fear of undergoing, or being forced to perform FGM are therefore able to seek and receive adequate protection from the authorities.

3.9.5 Internal relocation. FGM is a regionalised practice concentrated mainly in the north of the country. Though security forces and other government agencies operated roadblocks on major roads, where they demand that motorists or passengers produce identity and vehicle papers and regularly extort small amounts of money (particularly from those intending to travel north from government-controlled areas to NF territory), the Government generally does not restrict internal travel or freedom of movement. [source 2a] Those in fear of undergoing, or being forced to perform FGM are therefore able to internally relocate to another part of the country to escape this threat.

3.9.6 Caselaw

IAT/AIT Determinations: DI (Ivory Coast) CG [2002] UKIAT 04437 promulgated 27 September 2002. Threat of female genital mutilation. The claimant alleged that her Article 3 and 8 rights would be breached due to the threat of FGM. The Tribunal found that there was protection available in the Ivory Coast and an internal flight option.

3.9.7 Conclusion. While FGM remains a serious problem in the Ivory Coast, particularly in the predominantly Muslim north, it is illegal and practitioners have been prosecuted under anti-FGM legislation. The availability of adequate state protection and a viable internal relocation alternative means that claims are unlikely to engage the UK's obligations under the ECHR. Those having undergone, who fear being subjected to, or being forced to carry out, FGM will therefore not encounter ill-treatment amounting to a breach of the ECHR. The grant of HP in such cases is therefore unlikely to be appropriate.

3.10 Prison conditions

3.10.1 Claimants may claim that they cannot return to Ivory Coast due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Ivory Coast are so poor as to amount to torture or inhuman treatment or punishment.

3.10.2 Consideration. In 2004, conditions were poor and in some cases life threatening in the country's 33 prisons, largely because of inadequate budgets and overcrowding. In May 2004, the main MACA prison

housed approximately 6,000 detainees; it was built for 1,500. MACA was the country's biggest prison and conditions were notoriously bad, especially for the poor. Wealthy prisoners reportedly could "buy" extra cell space, food, and even staff to wash and iron their clothes. There were credible reports that prisoners frequently brutalised other prisoners for sleeping space and rations; however, there were no reports that guards brutalised prisoners. Doctors Without Borders (MSF) supplemented the prison system's inadequate medical facilities. Several small national and international charities also helped some prisoners. The International Committee of the Red Cross (ICRC) helped feed prisoners with no family. During 2004, to improve prison conditions, the Government improved the quality of the food served at MACA. Unlike in 2003, there were no reports in 2004 that prisoners died from malnutrition. [source 2a]

3.10.3 Men and women are held separately in prisons in 2004. Male minors were held separately from adult men, but the physical barriers at the main MACA prison were inadequate to enforce complete separation. Prison conditions for women and children remained particularly difficult. Female prisoners were segregated in a separate building under female guard. There were continued reports that female prisoners engaged in sexual relations with wardens to get food and privileges. There were no health facilities for women. Pregnant prisoners went to hospitals to give birth and then returned to prison with their babies. Some women prisoners were pregnant before being jailed. The penitentiary accepted no responsibility for the care or feeding of the infants; the women received help from local NGOs. In May 2004, the state-owned daily newspaper, Notre Voie, reported that out of the 94 women held in the women's section of MACA, there were 6 female minors. [source 2a]

3.10.4 The Catholic Bureau for Children (BICE) study on youths in prisons revealed that 576 males under 18 were held in the Centre for Observation of Minors in Abidjan during 2003. In 2004, BICE also helped conduct physiological tests to determine the age of some inmates who had no identification papers and taught juvenile prisoners trades, such as sewing, carpentry, gardening, house painting, and drawing. Pre-trial detainees were held with convicted prisoners in 2004. In May 2004, it was reported that out of 6,000 prisoners held in MACA, 1,876 were pre-trial detainees and were held with convicted prisoners. During 2004, the Government permitted access to prisons by local and international NGOs including the ICRC, MSF, World Doctors, and International Prisons' Friendship. [source 2a]

3.10.5 The rebels forces (NF) maintained detention centres, and during 2004, the ICRC and the UN mission force (ONUCI) human rights division local team were granted full access. There were credible reports that the rebels still killed prisoners, though less frequently due to improved conditions. In March 2004, the rebel forces in Man released eight army officers under the supervision of the ICRC. In December 2003, the NF released 40 army officers in Korhogo and Bouake under the supervision of ICRC. [source 2a]

3.10.6 Conclusion. Whilst prison conditions in Ivory Coast are poor with overcrowding and abuse or exploitation of inmates being a particular problem, conditions are unlikely to reach the Article 3 threshold. Therefore even where claimants can demonstrate a real risk of imprisonment on return to Ivory Coast a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual's age and state of health.

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See API on Discretionary Leave)

4.2 With particular reference to Ivory Coast the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should not imply an automatic grant of DL. There may be other specific circumstances not covered by the categories below which warrant a grant of DL - see the API on Discretionary Leave.

4.3 Unaccompanied minors

4.3.1 The policy on unaccompanied minors is set out in the API on Children. Unaccompanied minors who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception arrangements in place.

4.3.2 Unaccompanied minors without a family to return to, or where there are no adequate reception arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period of three years or until their 18th birthday, whichever is the shorter period.

4.4 Medical treatment

4.4.1 Claimants may claim they cannot return to Ivory Coast due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.

4.4.2 The public health system, including the provision for safe water and sanitation, has been severely disrupted. 80% of health facilities that existed before the outbreak of the conflict in September 2002 in the north and west of the country have closed or operate at best with minimal facilities. Health facilities in the south are over-stretched due to the influx of internally displaced persons in need of medical attention. The outbreak of measles and cholera poses serious health problems. The provision of preventative and reproductive health care has also been negatively affected by the crisis. [sources 7, 10a, 10b] [4] (para 5.43)

4.4.3 Several aid agencies were present in Ivory Coast. They included the International Committee of the Red Cross (ICRC), the Ivorian Red Cross, Medecins Sans Frontières, Action Internationale Contre le Faim (AICF), United Nations Children's Fund (UNICEF). In Abidjan, privately-run medical and dental facilities are adequate. Pharmacies are well-stocked with medications produced in Europe, though newer drugs may not be available. Medical care in Ivory Coast outside of Abidjan is extremely limited. Medical treatment of a reasonable standard is available, but can be expensive. Anti-retroviral treatment for AIDS/HIV is available with grants and donations from western governments and international organisations throughout 2003 and 2004 considerably reducing the per-person cost. [sources 7, 10a, 10b] [4] (paras 5.44 - 5.47)

4.4.4 Where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of discretionary leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

5.1 Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Returns are to the capital Abidjan.

5.2 The UNHCR advises that the return of unsuccessful asylum seekers originating from Abidjan should be approached with caution and that it is not safe for those originating from outside the capital to return. [3] The UNHCR's position provides a broad assessment of the situation in the Ivory Coast and we do not dispute that it presents an accurate overview of the general humanitarian situation and the social and security problems inherent in Ivory Coast. However, asylum and human rights claims are not decided on the basis of the general situation - they are based on the circumstances of the particular individual and the risk to that individual. We therefore do not take the view that the return of every Ivorian failed asylum seeker from Abidjan should be subject to additional considerations or that those from outside the capital should automatically be entitled to some form of protection. Any individual Ivorian claimant found by the Home Office and the independent appeals process not to be in need of international protection may return safely to Ivory Coast.

5.3 Caselaw

IAT/AIT Determinations: AZ (Ivory Coast) CG [2004] UKIAT 00170 promulgated 23 June 2004. Risk on return. The Tribunal found that the objective evidence does not show there would be a real risk of serious ill treatment for returned asylum seekers to Ivory Coast. Although they acknowledged that conditions would be difficult there was nothing to show that the conditions would breach the Article 3 threshold (paras 64 and 66).

5.4 Ivorian nationals may return voluntarily to any region of the Ivory Coast at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Ivory

Coast. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Ivorian nationals wishing to avail themselves of this opportunity for assisted return to Ivory Coast should be put in contact with the IOM offices in London on 020 7233 0001 or www.iomlondon.org

6. Additional references

[1] UK Foreign and Commonwealth Office
Country profile: Ivory Coast. Last updated 25 July 2005 at <http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029394365&a=KCountryProfile&aid=1019672556734>

[2] British Broadcasting Corporation (BBC)
a. 'Rebels refuse to disarm' 1 August 2005 at <http://news.bbc.co.uk/1/hi/world/africa/4733879.stm>

[3] United Nations High Commissioner for Refugees (UNHCR)
Position on the return of rejected asylum seekers to Cote d'Ivoire, January 2004.

[4] UK Immigration and Nationality Directorate: Country Information and Policy Unit. Ivory Coast Country Information Bulletin June 2004.

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